

REMARKS

Claims 1-7 and 9-14 are pending in this application. Claims 1-4, 13 and 14 are withdrawn from consideration as being drawn to a non-elected species. By this Amendment, claims 5, 9 and 11 are amended. Support for these amendment can be found at least in Fig. 3 steps S11 and S19, Figs. 6 and 13 and paragraphs [0062], [0063] and [0079] of the specification. No new matter is added by these amendments. Claim 8 is canceled without prejudice to, or disclaimer of, the subject matter in that claim. Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested.

The Office Action rejects claim 11 under 35 U.S.C. §112, second paragraph, as being indefinite. Claim 11 is amended to obviate this rejection. Accordingly, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §112, second paragraph, rejection.

The Office Action rejects claims 5, 9 and 11 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,106,965 to Hirano et al. (hereinafter "Hirano"). Additionally, the Office Action rejects claims 6, 7 and 10 under 35 U.S.C. §103(a) as being unpatentable over Hirano, and rejects claims 8 and 12 under 35 U.S.C. §103(a) as being unpatentable over Hirano in view of U.S. Patent No. 6,007,933 to Jones. Applicants respectfully traverse these rejections.

The Office Action provisionally rejects claims 5, 9 and 11 for nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of co-pending U.S. Application No. 10/791,719, and provisionally rejects claims 5, 9 and 11 for nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of co-pending U.S. Application No. 10/791,722. In accordance with MPEP §804.I.B.1, Applicants acknowledge, but traverse, these provisional nonstatutory obviousness-type double patenting rejections.

The Office Action asserts that Hirano teaches the features as positively recited in at least claims 5, 9 and 11. However, Hirano does not teach a method of manufacturing a fuel cell including at least "disposing a first nonmetallic supporting member by which a first supporting member that supports the first current collecting layer is disposed in the first gas flow path that is formed and a step of forming a first gas flow path" or "disposing a second nonmetallic supporting member by which a second supporting member that supports the second current collecting layer is disposed in the second gas flow path that is formed in the step of forming a second gas flow path," as recited in at least amended claim 5.

The Office Action concedes that Hirano fails to teach a supporting member as recited in amended claims 5, 9 and 11. Instead, the Office Action relies on Jones to cure the deficiencies of Hirano. Jones, in Fig. 5 and col. 9, lines 8-11, teaches supporting member 520 and 520' are formed from different types of metals. However, Jones does not teach "a nonmetallic supporting member," as recited in amended claims 5, 9 and 11.

For at least the above reasons, Hirano, in combination with Jones, cannot reasonably be considered to teach, or to have suggested, the combinations of all of the features recited in claims 5, 9 and 11. Further, claims 6, 7, 10 and 12 would also not have been suggested by the applied references for at least the respective dependency of these claims on allowable, independent claims 5, 9 and 11, respectively, as for the separately patentable subject matter these claims recite.

Accordingly, reconsideration and withdrawal of the rejection of the subject matter of claims 5-7 and 9-12 under 35 U.S.C. §102(b) and §103(a) are respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 5-7 and 9-12 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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